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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,967	07/03/2003	Geert Frank Bruynsteen	US000052A	6741

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EXAMINER	
BELIVEAU, SCOTT E	
ART UNIT	**PAPER NUMBER**
2614	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/613,967	BRUYNSTEEN, GEERT FRANK	
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 21-40 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 21-40 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 03 July 2003 is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 2003-07-03.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 38 is objected to because the phrase "the output apparatus" lacks antecedence. The examiner shall presume that the output apparatus is referencing the "end-user system". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 21, 22, 30, 31, and 34-40 are rejected under 35 U.S.C. 102(e) as being anticipated by Levin et al. (US Pat No. 6,654,546 B1).

In consideration of claim 21, the Levin et al. reference discloses a "method of enabling an end-user to locally processes content information at a quality level remotely adjustable by a service provider". In particular the method comprises "communicating over a data network" (ex. telephone network) (Col 3, Lines 1-16) "with an end user apparatus for rendering content information" [101] associated with video programming (Col 2, Lines 17-41). The "end-user apparatus" [101] may subsequently be "configured . . . to locally adjust the quality of content information rendered through the end-user apparatus, the adjustment to quality being based on one of . . . a change in the storage capacity for storing content information in

a storage device associated with the end-user apparatus" (Col 3, Line 56 – Col 4, Line 8). For example, a recording device may be shipped that is only allowed to record and subsequently render the correspondingly stored low quality of video. Therefore, the system when shipped would initially be unable to store/render high quality video. The particular service provider upgrade would subsequently enable the system to adjust the quality of stored/rendered video in connection with the capability to store a higher quality video than was originally possible.

Claim 22 is rejected wherein the "end-user receives a higher quality in return for a higher fee" (Col 3, Lines 16-25; Col 3, Line 56 – Col 4, Line 8).

Claim 30 is rejected in view of Levin et al. as aforementioned. The reference discloses a "CE apparatus" [101] for "processing content information received via the device via a data network" (Col 2, Lines 28-41). The "apparatus" [101] enables "an end-user to select a specific one of multiple quality levels of the processing" and a "controller" [114] "coupled to a storage device" [112]" for "setting the specific quality level in response to a signal supplied by a third party" wherein a specific quality level corresponds to a specific storage capacity allocated for the content information by the controller according to the signal" (Col 3, Line 56 – Col 4, Line 8). The "apparatus" [101] is "configured to receive the content information an dthe signal via a data network" (Col 2, Lines 28-41; Col 3, Lines 1-16).

Claim 31 is rejected wherein the "storage device" [101] "comprises at least one of: a HDD" (Col 2, Lines 28-28).

Claims 34 and 36 are rejected in view of the Levin et al. reference. As illustrated in Figure 1, the reference discloses an "end-user system". The "system" comprises an "output"

[105] for "rendering of content information to an end user" such as that associated with video programming. A "communication interface" [115] for "communicating over a data network with a third party server for remotely adjusting the rendering of content information on the end-user system" wherein the "quality of content information rendered through the output [is] adjustable by the server [and] the adjustment to quality [is] based on one . . . of (1) a change in the storage capacity for storing content information in a storage device" [112] "associated with the end user apparatus" (Col 3, Line 1 – Col 4, Line 8). Claim 36 is further limiting of the alternative limitation which need not be met in order to anticipate the claimed limitations.

Claim 35 is rejected wherein the "storage capacity of the storage device is remotely adjustable" (Col 2, Line 66 – Col 3, Line 38).

Claim 37 is rejected wherein the "storage device" [101] "comprises at least one of: a HDD" (Col 2, Lines 28-28).

Claim 38 is rejected wherein the "quality of content information comprising video information is remotely adjustable and the output apparatus comprises a video display" (Figure 1; Col 2, Lines 23-27; Col 3, Line 56 – Col 4, Line 8).

Claim 39 is rejected wherein the "output comprises a television display" [105] (Figure 1).

Claim 40 is rejected wherein the "storage device comprises a PVR" (Col 1, Lines 49-53).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 23-29, 32 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levin et al. (US Pat No. 6,654,546 B1) in view of Nishio et al. (US Pat No. 6,345,388 B1).

In consideration of claim 23, as aforementioned, the Levin et al. reference discloses that the "content information comprises video data" (Col 2, Lines 17-28). While the reference discloses the particular usage of levels of quality associated with video content, the reference does not particularly disclose that the "quality level relates to at least one of a color depth and a resolution of the video data when rendered". In a related art pertaining to video distribution equipment, the Nishio et al. reference discloses a television receiving apparatus [1] that is operable to locally adjust the quality of rendered video wherein the "quality level relates to at least one of a color depth and a resolution of the video data when rendered" (Col 5, Lines 29-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Levin et al. with the teachings of Nishio et al. for the purpose of providing a means to store/render a video image at a particular quality level based upon based upon a subscriber requested accounting level (Nishio et al.: Col 1, Lines 42-47).

Claim 24 is rejected as aforementioned wherein "adjusting the quality of the storing comprises regulating a storage capacity of the storage device" (Levin et al.: Col 3, Line 56 – Col 4, Line 8).

Claim 25 is rejected wherein the "regulating of the storage capacity comprise providing end-user access to a selected portion of a local storage" (Levin et al.: Col 3, Lines 26-38).

Claim 26 is rejected wherein the "local storage" [112] comprises a "HDD" and the "storage capacity is regulated by controlling a mechanical component of the HDD" associated with the physical circuitry of the drive (Col 2, Lines 63-65). For example, limiting the particular ability for the drive to access all sectors associated with its full storage capacity effectively controls the mechanical components of the HDD so as to not read/write to those sectors.

In consideration of claim 27, Levin et al. discloses that the "storage capacity is regulated by controlling an address range of the memory" (Col 2, Lines 55-63). The reference does not explicitly teach that the "local storage comprises a solid state memory", however, the reference teaches that the invention may be implemented using other forms of mass storage (Col 2, Lines 38-41). The examiner takes OFFICIAL NOTICE as to the existence of "solid state memory" as a form of mass storage (ex. FLASH memory). Accordingly, it would have been obvious to one having ordinary skill in the art at time the invention was made so as to modify Levin et al. such that the "local storage comprises a solid state memory" for the purpose of using a utilizing a form of storage which is small, rugged, and consumes less power than corresponding magnetic drives.

In consideration of claim 28, as aforementioned, the reference discloses that the "storage capacity is regulated by controlling a mechanical component" of the local storage device [112] (Levin et al.: Col 3, Lines 26-38). The reference, however, does not explicitly disclose that the "local storage comprises a ODD", however, the reference teaches that the invention may be implemented using other forms of mass storage (Col 2, Lines 38-41). The examiner takes OFFICIAL NOTICE as to the existence of "ODD" as a form of mass storage.

Accordingly, it would have been obvious to one having ordinary skill in the art at time the invention was made so as to modify Levin et al. such that the "local storage comprises a ODD" for the purpose of using a utilizing a form of storage that is robust in that the stored data cannot be corrupted in the presence of magnetic fields.

Claim 29 is rejected wherein the "locally adjusting the quality comprises changing the software for the rendering circuit to control a data format of the content information for playout" (Nishio et al.: Col 4, Line 51 – Col 5, Line 42).

In consideration of claim 32, Levin et al. explicitly incorporates by reference US App No. 09/132,690 with respect to details pertaining the "apparatus" [101] (Col 1, Lines 6-18). As illustrated in Figure 2 the "processing comprising playing out the content information" and further comprises a "circuit for rendering the content information" [156]. The aforementioned "controller" [114] of Levin et al. is "coupled to the data rendering circuit" [156]. In a related art pertaining to video distribution equipment, the Nishio et al. reference discloses a television receiving apparatus [1] wherein the "controller" [12] is "coupled to the data rendering circuit" [11] "for setting the specific quality of the rendering under control of the signal" (Col 4, Line 64 – Col 5, Line 43). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Levin et al. with the teachings of Nishio et al. for the purpose of providing a means to store/render a video image at a particular quality level based upon based upon a subscriber requested accounting level (Nishio et al.: Col 1, Lines 42-47).

Claim 33 is rejected as aforementioned wherein the Levin et al. reference discloses that the "content information comprises video data" (Col 2, Lines 17-28). While the reference

discloses the particular usage of levels of quality associated with video content, the reference does not particularly disclose that the "quality level relates to at least one of a color depth and a resolution of the video data when rendered". In a related art pertaining to video distribution equipment, the Nishio et al. reference discloses a television receiving apparatus [1] that is operable to locally adjust the quality of rendered video wherein the "specific quality determines at least one of a color depth and a resolution of the rendered content information" (Col 5, Lines 29-42). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify Levin et al. with the teachings of Nishio et al. for the purpose of providing a means to store/render a video image at a specific quality based upon based upon a subscriber requested accounting level (Nishio et al.: Col 1, Lines 42-47).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Shah-Nazaroff et al. (US Pat No. 6,157,377) reference discloses a system and method whereby a user can request the delivery of an enhanced video presentation.

- The Dierke (US Pat No. 6,192,188) reference discloses a method and apparatus for downloading encoding algorithms associated with changing the quality of recorded media.
- The Hirata (US Pat No. 6,374,406) reference discloses a system and method for remotely controlling a recording device through an electronic mail message.
- The Moroney (US Pat No. 6,532,593) reference discloses a system and method for transcoding received video streams to a desired quality level.
- The Franco (US Pub No. 2002/0046407) reference discloses a system and method for remotely controlling the operation and programming of a recording device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 571-272-7343. The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Scott Beliveau
Examiner
Art Unit 2614

SEB
February 16, 2006